



City of  
**Indianapolis**  
*Gregory A. Ballard, Mayor*

Office of Corporation Counsel  
***Ethics Training***

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## Outline

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- Introduction
- Penalties for Violation of Ethics Code
- The Standards of Ethical Conduct
  - Ethics Code
  - Offenses Against Public Administration
  - Access to Public Records Act
  - Open Door Law
- Ethics Complaint Process
  - Process for filing a complaint
  - Protection for Whistleblowers
- Economic Statements of Interest
- OCC Assistance



## **Purpose of Ethics Code**



### **■ Purpose:**

- Duties should be carried out impartially;
- Decisions and policy should not be made outside of the proper channels of city and county government;
- Public office should not be used for private gain; and
- Actions, transactions, or involvements should not be performed or engaged in which have the potential to become a conflict of interest.

### **■ The Code Sets Clear & High Ethical Standards**

- For official conduct of councillors, officials, appointees and employees of city and county government AND
- For people who have a business relationship with city or county government

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## **Who Must Complete This Training & When?**



### **■ New Appointments & Hires**

- All appointees must complete the training within six weeks of appointment

### **■ Ongoing Training**

- All appointees must complete the training once every two years

### **■ What If I Don't Complete the Training?**

- OCC Maintains documentation to ensure compliance
- Failure to attend training is a violation of the code

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## **Penalties for Ethics Violations**



### **■ Potential Penalties**

- Financial penalties
- Making restitution or disgorgement
- Canceling a contract, or barring a person from entering into a contract with an agency for a certain period of time
- Removal from office, appointment, or employment;
- Barring an individual from future employment or appointment with the city or county for a certain period of time
- Revocation or suspension of a license, registration, or permit issued by an agency or barring a person from obtaining such a license, registration, or permit for a certain period of time

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## **The Standards of Ethical Conduct**



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|------------------------------------|-------------------------------------|
| ■ Gifts                            | ■ Confidential Information          |
| ■ Donor Restrictions               | ■ Additional or Excess Compensation |
| ■ Honoraria                        | ■ Conflicts of Interest             |
| ■ Political Activity and Patronage | ■ Use of City or County Property    |
| ■ Appointment Restrictions         | ■ Complicity                        |
| ■ Post-Employment Restrictions     | ■ Bad Faith Complaints              |

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## **Key Definitions**



### ■ **Business Relationship**

- A person who has:
  - A financial interest in a contract with, or purchase by, an agency; or
  - A license or permit requiring the exercise of judgment or discretion by the agency.

### ■ **Appointee**

- A person, other than an official or employee, who is appointed to an agency, a municipal corporation, or a governmental entity in the county whose budget is subject to the review of the city-county council.

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## **Ethical Conduct: Gifts**



### ■ **Prohibition of Gifts**

- An appointee or his or her immediate family
- May not accept or solicit
- Gifts, favor, service, entertainment, food, drink, travel expense, or registration fees
- From:
  - Any person who has a business relationship with the appointee's agency or
  - Someone who is seeking to influence an appointee's action in his or her official capacity

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## Exceptions to Gift Rule



### ■ Exceptions

- Any gift with a value of less than \$25 as long as the total value of all gifts received from the same person or same business does not exceed \$100 per year
- Gifts from public agencies or institutions that are utilized for the benefit of the city or county, and not solely for the benefit of one's self or relatives
- Mementos or souvenirs
- Food or drink consumed at a public meeting to which at least 25 individuals are invited

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## Exceptions to Gift Rule



### ■ Additional Exceptions

- Gifts related to an economic development effort approved in advance by the mayor or his or her director of economic development
- Gifts to an appointee from his or her relatives or another person with whom the appointee has an ongoing social relationship, so long as
  - The gifts or other items of value are paid for personally by the giver, rather than a business entity, and not deducted as a business expense; and
  - The giver is not seeking to influence action or inaction by the individual in that person's capacity

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## **Exceptions to Gift Rule**



### **■ Additional Exceptions**

- Political contributions made in accordance with state law
- Previously approved discount and other promotional programs made generally available to employees and appointees
- Property officially accepted as a gift to the city
- Any item of value for which face value or reasonable fair market value is promptly paid.
- A gift accepted by a member of the appointee's immediate family that the appointee would benefit from
  - So long as the gift was provided in the normal course of the immediate family member's employment and the purpose of which is not to influence the appointee,

## **Non-City/County Employees**



### **■ Persons Doing Business with the City and County Are Covered Too**

### **■ It Is a Violation for a Person**

- Who has a business relationship with an appointee's or employee's agency
- To provide any gifts, favors, services, entertainment, food, drink, travel expenses, or registration fees to such appointee or employee, or their immediate family
- If that appointee or employee would not be permitted to accept the gift, favor, service, entertainment, food, drink, travel expenses or registration fees under the ethics code.

## Gifts: Example #1



### ■ Question

- It's the holiday season and a vendor that comes in front of your board on a regular basis brings in homemade cookies for you.
- May you accept them?

### ■ Options

- a) No, appointees are not allowed to accept any gifts from people with a business relationship with a city or county agency
- b) Yes, appointees are allowed to accept gifts if the person is not trying to influence a decision
- c) Yes, if the gift-giver has not given you gifts totaling more than \$100 for this year.

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## Gifts: Example #1 Answer



### ■ The Correct Answer Is

- c) Yes, if the gift-giver has not given you gifts totaling more than \$100 for this year.

### ■ Why?

- ?293-201(b)(1) allows for gifts under \$25 in value if all gifts from one person/business do not total more than \$100 per year (between May 1 and April 30)

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## Gifts: Example #2



### ■ Question

- A vendor who appears in front of your board on regular basis sends you a designer leather briefcase for your birthday.
- What can you do with it?

### ■ Options

- a) Give it to your spouse
- b) Return it to the vendor
- c) Throw it in the trash

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## Gifts: Example #2 Answer



### ■ The Correct Answer Is

- b) Return it to the vendor

### ■ Why?

- This gift is likely worth more than \$25 which would violate ?293-201 on gifts.

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## Ethical Conduct: Honoraria



### ■ Honorarium

- Payment of money for an appearance, a speech or an article, but does not include payment or reimbursement of travel expenses.

### ■ Personal Acceptance Prohibited

- Appointees shall not personally accept an honorarium for any activity that may be considered part of his or her official duties

### ■ Exceptions

- An appointee may accept an honorarium on behalf of the city or county as long as he or she promptly remits any amount received to the City Controller
- An appointee may personally accept an honorarium for activities not done in connection with his or her official duties and that are prepared on his or her own time.

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## Honoraria: Example #1



### ■ Questions

- You are on the IT board and work closely with Corporation X to produce a software program to ease paper backlogs.
- The National Government Software Providers Association asks you to speak at their annual conference.
- Corporation X offers to pay for your travel expenses and pay you \$1,000 for your speech.
- May you take Corporation X up on their offer?

### ■ Options

- a) Yes, you may accept the speaking engagement offer and the offer of Corporation X to pay for your travel. You can accept the payment of the \$1,000 for speaking, but must remit it to the Controller's Office.
- b) No, you must decline to speak at the conference because it will interfere with your official duties.
- c) Yes, you may accept the speaking engagement, \$1,000 for speaking and the travel expenses, but you must take the days off of work that you will be gone.

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## Honoraria: Example #1 Answer



### ■ The Correct Answer Is

- a) Yes, you may accept the speaking engagement offer and the offer of Corporation X to pay for your travel. You can accept the payment of the \$1,000 for speaking, but you must remit it to the Controller's Office.

### ■ Why?

- ?293-203 does not allow the payment of money for an appearance, a speech or an article, but does allow payment for reimbursement of travel expenses.

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## Ethical Conduct: Political Activity



### ■ Prohibition on Political Activity

- Appointees are prohibited from engaging in political activity while on city or county time or through use of city or county resources.
- The chief administrative officer of an agency, appointees, and employees with final purchasing authority shall not solicit political contributions from persons with a business relationship with his or her agency on behalf of any candidate for elected office, unless that individual is a candidate for elected office himself or herself.

### ■ Political Activity

- Taking action to support an individual in his or her campaign for elected office, or soliciting contributions for a political party or another candidate for any elected public office.

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## **Ethical Conduct: Political Activity**



### ■ **Patronage Prohibition**

- No appointee may request or compel political activity by a person under threat or promise of official action or inaction.
- Employment or appointment can not be offered as a reward for any political activity.
- Exception:
  - An appointee or employee may work the polls in his or her official position or encourage another appointee or employee to work the polls in an official position. However, an employee's decision as to whether to work the polls cannot affect that employee's performance assessment.

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## **Political Activity: Example #1**



### ■ **Question**

- You are appointed to a board.
- Your best friend is running for office.
- May you work on her campaign?

### ■ **Options**

- a) No, because you are an appointee.
- b) Yes, because you have access to a lot of people that come before your board and you can talk to those people about the campaign at board meetings
- c) Yes, as long as you don't work on city time or use city resources to benefit the campaign.

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## **Political Activity: Example #1 Answer**



- **The Correct Answer Is**
  - c) Yes, as long as you don't work on city time or use city resources to benefit the campaign.
- **Why?**
  - ?293-204 (a) instructs that an appointee or employee shall not engage in political activity while on city or county time, or with city or county resources.

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## **Appointment Restrictions**



- No appointee may miss more than 1/3 of the meetings in a twelve-month period.
- No councillor, official, or employee may be appointed unless the statute, ordinance, or executive order establishing the agency expressly contemplates membership by that type of member.

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## **Ethical Conduct: Employment**



### ■ **Second Jobs/Moonlighting**

- Appointees may not accept other employment involving compensation of substantial value if the responsibilities of that employment
  - Are incompatible with the responsibilities of his or her appointment or
  - Require the individual to excuse him - or herself from the essential job duties with the city or county.
- Appointees cannot accept employment which would require him or her to divulge confidential information gained during appointment to a city or county board.

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## **Ethical Conduct: Additional Compensation**



### ■ **Additional/Excess Compensation Is Prohibited**

- An appointee may not solicit or receive compensation for the sale or lease of any property or service to a person with a business relationship with the appointee's agency if the compensation substantially exceeds the amount that would ordinarily be charged.

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## **Additional Compensation: Example #1**



### ■ **Question**

- You are appointed to a board.
- Your house is for sale listed at \$125,000 on the market.
- A vendor who recently submitted a bid on a contract in your agency offers to buy your house for \$250,000.
- Can the vendor buy your house?

### ■ **Options**

- a) Yes, anyone can buy any house for any price they want.
- b) No, a vendor can never buy anything from you.
- c) Yes, but the vendor cannot pay more than what the fair market value is on the house.

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## **Additional Compensation: Example #1 Answer**



### ■ **The Correct Answer Is**

- c) Yes, but the vendor cannot pay more than what the fair market value is on the house.

### ■ **Why?**

- ?293-209 that you cannot sell or lease a property or service for more than you would charge in the ordinary course of business.

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## **Key Definitions**



### **■ Financial Interest**

- An interest which will result in an ascertainable increase or decrease in the income or net worth of the councillor, official, appointee, or employee or a member of that individual's immediate family, but does not include an interest:
  - Of stock unless more than 1% of the outstanding shares of the common stock of the corporation; or
  - That is held as an asset in a blind trust

### **■ Immediate Family Member**

- An individual's spouse or dependent

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## **Ethical Conduct: Conflicts of Interest - Voting**



### **■ Prohibition on Financial Interest in Outcome of Vote**

- An appointee may not participate in a decision or vote where the appointee, his or her immediate family member, or the appointee's business or prospective employer has a financial interest in the outcome of the matter.
- If an appointee does have a conflict of interest, he or she should recuse him- or herself from further action on the matter and may seek an advisory opinion from OCC.

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## **Ethical Conduct: Conflicts of Interest - Contracts**



### ■ **Prohibition on Financial Interest in Contracts**

- An appointee may not have a financial interest in a contract made by the individual's agency.
  - Exceptions:
    - The contract is made after public notice or competitive bidding
    - The appointee discloses his or her interest to OCC
    - The performance of the contract would not compromise the performance of the appointee's official city or county duties
    - If the contract is for professional services, the Chief Administrative Officer of the contracting agency files a written statement with OCC certifying that no other person in the agency can perform these specific duties.

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## **Conflicts of Interest: Example #1**



### ■ **Question**

- You work on a team reviewing bids for contracts for your city agency.
- One of the companies that submitted a bid is owned by your son.
- His company really needs the work.
- He contacts you at home, urges you to go with his company, and asks you for information about your agency's criteria for judging bids so in his final offer he can make sure his company meets all the criteria.
- What should you do?

### ■ **Options**

- a) Help him by giving some inside information about your agency's criteria for judging the bids. No one knows he is your son.
- b) Tell him that you cannot give him the criteria, recuse yourself from further action on the matter and seek an advisory opinion from OCC.
- c) Tell him that you can't give him the criteria, but you will urge the team to go with his bid. You tell the team he is your son and will be more fun to work with than the other companies.

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## **Conflicts of Interest: Example #1 Answer**



- **The Correct Answer Is**
  - b) Tell him that you cannot give him the criteria, recuse yourself from further action on the matter and seek an advisory opinion from OCC.
- **Why?**
  - ?293-210 prohibits participating in any discussion or vote in which you or anyone in your immediate family has a financial interest at stake.

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## **Ethical Conduct: Confidential Information**



- **Prohibition on Divulging Confidential Information**
  - A current or former appointee shall not materially benefit from confidential information unless allowed by law
  - An appointee shall not divulge confidential information, unless allowed by law
  - Confidential information is any information you receive while appointed to a city/county board that is not for public knowledge.

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## **Ethical Conduct: City-County Property**



### ■ **Business Use Only**

- City or county property should not be used for any purpose other than official city or county business

### ■ **Limited Use Policy**

- City or county property or personnel should not be used to conduct commercial activities that are not for the purpose of conducting city or county business.

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## **Ethical Conduct: Complicity & Bad Faith**



### ■ **Complicity Prohibited**

- It is a violation to knowingly induce, encourage, or aid anyone to violate the rules of the Ethics Code.

### ■ **Bad Faith Complaints**

- It shall be a violation to file in bad faith a complaint with the ethics commission against another person.

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## Offenses Against Public Administration



### ▪ Bribery

- You may not solicit or accept any property from anyone with the purpose to influence an official act.
- You may not solicit or accept any property with the intent to encourage a witness or informant to
  - Withhold important information
  - Avoid legal processes
  - Keep any individual out of an investigation
- Violation is a Class C Felony

### ▪ Official Misconduct

- You May Not Knowingly, or Intentionally
  - Perform an illegal act to gain property for yourself
  - Accept any property other than what you are authorized to accept as a condition of continued employment
  - Use insider information to your financial benefit
  - Fail to deliver public records and property to your successor
- Violation is a Class D Felony

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## Offenses Against Public Administration



### ▪ Profiteering From Public Service

- After leaving an agency for new employment, it is illegal for you to financially benefit from a contract with that same agency for the first year if you negotiated or prepared the contract while you were employed with the agency.
- Violation is a Class D Felony

### ▪ Conflicts of Interest

- Illegal to profit financially from a contract or a purchase by your agency
- Exceptions
  - You are not a member of the staff of the agency that makes a purchase or a contract
  - Your functions or duties are unrelated to the purchase or the contract
  - You make an official disclosure of the conflict
  - Contracts for utilities regulated by the government
  - If you are an elected public servant or a member of the board of trustees of a state supported college or university
  - If you are employed by a school corporation and the contract or purchase involves the employment of a dependent
- Violation is a Class D Felony

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## **Access to Public Records Act**

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### ■ **Purpose**

- Law exists because all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees

### ■ **General Rule**

- Any person may inspect and copy the public records of any public agency during the regular business hours of the agency.

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## **Access to Public Records Act**

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### ■ **Requests**

- Identify the record(s) being requested
- May not be denied because the person making the request refuses to state the purpose of the request.

### ■ **Agency May Not Disclose:**

- Any records declared confidential by state or federal law
- Trade secrets
- Patient medical records
- Social Security Numbers

### ■ **Agency May Choose to Not Disclose:**

- Investigatory records of law enforcement agencies
- Attorney work product
- Intra-agency or interagency advisory documents

### ■ **Response to Request**

- Tell your OCC attorney immediately if you get a request
- Law requires a response within a certain amount of time

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## Open Door Law



### ■ Purpose

- Created to ensure the official action of public agencies be conducted and taken openly and that the people are fully informed.

### ■ Application

- Applies to all public agencies, boards, commissions, departments, etc. that exercise government power.

### ■ General Requirements

- Any meeting of a governing body of a public agency must be open to the public at all times.
- Public must be notified of date, time and location of meeting at least 48 hours before the meeting
- Agenda, if there is an agenda for the meeting, must be posted at the entrance of the meeting prior to the beginning of the meeting
- Official record of meeting must be kept and include the following:
  - Date, time and location of meeting
  - Members present and absent
  - Substance of matters discussed
  - Record of all votes taken
- No secret ballots
- Meetings must be held in a location accessible to the disabled.

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## Open Door Law



### ■ Meeting:

- Gathering of a majority of the governing body for the purpose of taking official action upon public business
- Exceptions:
  - Social or chance gathering not intended to avoid open door law
  - Onsite inspection of a project, program or facilities
  - Travel to and attendance at meetings devoted to betterment of government
  - A political caucus
  - Gathering to discuss prospect, but not final conclusion
  - An orientation, administering an oath of office

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## Open Door Law



### ■ Serial Meetings Prohibited

#### – Serial Meetings:

- One gathering is attended by at least 3 members, but less than a quorum
- Other gatherings include at least 2 members
- The sum of the number of different members at all meetings equals a quorum
- All the gatherings concern the same subject matter and are held within a period of 7 days
- Held to take official action on public business

#### – Same exceptions to a meeting apply

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## Open Door Law



### ■ Executive Sessions may be held only:

- Where authorized by statute or;
- For discussion of strategy of the following (must be necessary for competitive or bargaining reasons):
  - Collective bargaining; or
  - Initiation of litigation or pending litigation; or
  - Implementation of security systems; or
  - Purchase or lease of real property up to the time a contract or option to purchase or lease is executed; or
- Discussion of school safety and security plans
- For negotiations with prospects by an economic development organization
- Discussion of employment issues
  - Prospective employees
  - Alleged misconduct
  - Job performance
  - Excludes: discussion of salary, compensation or benefits during budget process
- Discussion of confidential records

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## Advisory Opinions



- **Not sure what to do? Ask!**
  - Contact OCC at 327-4055 or [ethics@indygov.org](mailto:ethics@indygov.org)
- **Informal Guidance**
  - Provided for straightforward needs promptly and can be provided in writing or orally
- **Formal Advisory Opinions**
  - Anyone can request
  - Must disclose all relevant facts and circumstances
  - Written by Corporation Counsel and provide protection to you on that subject matter
  - Confidential
  - Can be appealed to the Ethics Commission
- **Published Online**
  - Will be published on website on a quarterly basis, however all identifying information will be removed.

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## Ethics Complaints



- **What If I See Someone Else Violating the Ethics Code?**
  - Seek the counsel of OCC or Human Resources before filing
  - Any individual may file a complaint
  - Complaints are filed with OCC
- **Whistleblower Protection**
  - If a complaint is made in good faith, the person who filed the complaint will be protected against retaliation.
- **What Is a Complaint?**
  - Complaint alleging a violation of the Ethics Code
  - Must be in writing and signed, containing the date, time, and place of each occurrence, and the name of the individual charged with the violation.
- **Complaints Are Reviewed by OCC & the Ethics Commission**

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## Ethics Complaints



### ■ Complaint Process

- OCC will review the complaint and determine if it satisfies filing requirements and has merit
- OCC will notify the person against whom the complaint is filed and allow them to respond
- The Ethics Commission will be notified of the complaint and will review the complaint and response
- A hearing will be conducted if probable cause of a violation exists

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## Economic Statements of Interest (ESI)



### ■ What Is It?

- A form that requires an individual disclose any financial interest he or she, or his or her family, has with any agency of the city or county.

### ■ When Is It Required to Be Filed?

- Prior to employment or appointment
- Appointees must file every year between April 1<sup>st</sup> and May 1<sup>st</sup>
- Within 60 days after leaving appointment, unless a subsequent office, appointment, or employment requires the filing

### ■ Posted Online

- ESI filed by all officials and councillors will be posted online.

### ■ Who Must File?

- Councillors
- Officials
- Any declared candidate for City - County Council or elected office
- The Chief Administrative Officer of an agency
- Anyone who reports directly to the Chief Administrative Officer of an agency
- Appointees
- Any employee whose employment is subject to the approval of the City - County Council
- Any employee with final purchasing authority
- All employees of the purchasing division of the office of finance and management

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## Questions?

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*If you ever need  
assistance on ethics issues, please  
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